IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 23 of 1987

with

WEALTH TAX REFERENCE No 23A of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF WEALTH TAX

Versus

AMBALAL SARABHAI T NOS 13 TO 14

Appearance:

1. WEALTH TAX REFERENCE No. 23, 23A of 1987

MR BB NAIK with MR MANISH R BHATT for Petitioner No. 1

MR MK PATEL for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 25/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

Although the Income Tax Appellate Tribunal, Ahmedabad has made only one reference which was registered as Wealth Tax Reference No. 23 of 1987, it is obvious that there would be two references because the assesses involved are two separate and distinct entities being Ambalal Sarabhai Trust No.13 and Ambalal Sarabhai Trust No.14. Accordingly, the registry shall number these two references as Wealth Tax Reference Nos.23 and 23A of 1987 respectively.

2. In these references at the instance of the revenue, the following common question is referred for our opinion in respect of assessment years 1973-74 to 1975-76 in case of each of the above numbered two assessees:-

"Whether, the Appellate Tribunal is right in law and on facts in holding that since the Trust was granted exemption under section 11 of the I.T. Act, 1961, the provisions of section 21/21A of the W.T. Act, 1957 would not be applicable and the assessee would be entitled to exemption under section 5(1) of the Act ?"

3. We have heard Mr BB Naik learned counsel for the revenue and Mr MK Patel learned counsel for the respondent-assessee.

4. Our attention is invited to the decision dated 18-1-2001 in Wealth Tax Reference No.26 of 1985 and the learned counsel agree that the facts giving rise to the present reference are similar to the facts giving rise to the aforesaid wealth tax reference No.26 of 1985. In that decision, this Court held that in view of the scheme of the Wealth Tax Act read with the Income-tax Act, if a trust is recognised as a public charitable trust under the Income-tax Act, it has to be so recognised under the Wealth-tax Act also. Therefore, the provisions of sec. 21-A of the Wealth-tax Act would not be applicable to the trust recognised as a public charitable trust under the Income tax Act.

5. Following the aforesaid decision, we answer the question referred to us in these references in the affirmative i.e. in favour of the assessee and against the revenue.

6. The References accordingly stand disposed of with

no order as to costs.

(M.S. Shah, J)

(D.A. Mehta,J)

zgs/-